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Attorney General Racine Urges Supreme Court to Uphold the Right to Marry Nationwide

Multistate Brief Argues State Laws Banning Same-Sex Marriage Are Unconstitutional

WASHINGTON, D. C. – Attorney General Karl A. Racine today joined a coalition of states in filing a friend-of-the-court brief with the U.S. Supreme Court arguing that the Constitution requires marriage equality nationwide.

The states' brief argues that the continued refusal by some states to license or recognize marriages between gay and lesbian couples inflicts widespread harm on these couples and their families, including those living in the District and other states with full marriage equality. Major life decisions made by married same-sex couples – including decisions about education, employment and residency – are affected by the lack of legal recognition of their marriages in some states. Many couples refuse to move to or simply try to avoid non-recognition states whenever possible.

“As in other states with full marriage equality, couples married here in the District face serious disadvantages when they travel in or move to states without marriage equality,” Attorney General Racine said. **“It is time for the Supreme Court to declare that, no matter where they might go in this great country, the District’s same-sex couples are equal to other couples.”**

The brief highlights several specific harms inflicted on married same-sex couples by states that refuse to recognize the validity of their marriages. They include:

- Not amending birth certificates to include both spouses;
- Allowing employers to deny access to health-care coverage for spouses;
- Denying a spouse’s right to make decisions for or even visit his or her spouse in the hospital;
- Denying parental rights for one spouse; and
- Not including a spouse’s name as a survivor on a death certificate.

Massachusetts Attorney General Maura Healey led the filing of the amicus brief on behalf of Massachusetts and 16 other jurisdictions, including California, Connecticut, Delaware, the District, Illinois, Iowa, Maine, Maryland, New Hampshire, New Mexico, New York, Oregon, Pennsylvania, Rhode Island, Vermont, and Washington.

A total of 12 states still refuse to permit marriages between same-sex couples or to recognize same-sex marriages lawfully licensed by other states. These non-recognition states include Kentucky, Michigan, Ohio, and Tennessee, whose laws are now under review. However, 21 states that currently license same-sex marriages do so only because they are required to by federal court decisions finding their marriage bans unconstitutional. Unless the Supreme Court requires marriage equality nationwide, these states may cease to honor same-sex marriages.

This week, for instance, the Alabama Supreme Court ordered the state's probate judges to cease issuing marriage licenses to same-sex couples despite a recent ruling by a federal district judge declaring the state's same-sex marriage ban unconstitutional.

"State officials openly defying federal courts in an attempt to limit the rights of a minority group should bring up bad historical memories for all Americans," Attorney General Racine said. **"In the next few days, we will mark two important anniversaries in the advancement of equality for all in our nation: the 50th anniversary of the Selma-to-Montgomery March, and the 5th anniversary of the first legal same-sex marriages in the District of Columbia. I urge the justices of the United States Supreme Court to move us one giant step down the road in our nation's long march toward living up to its founding principles."**

In total, 20 states joined briefs in support of the right to marry, including Hawaii, Minnesota, and Virginia (each of which filed a separate brief). These briefs were submitted in the cases of *Obergefell v. Hodges*, *Tanco v. Haslam*, *DeBoer v. Snyder*, and *Bourke v. Beshear*, all on appeal from the U.S. Court of Appeals for the Sixth Circuit. The cases have been scheduled for oral argument before the Supreme Court on April 28, 2015.

Attorney General Racine thanked D.C. Solicitor General Todd Kim for his work on marriage equality. **"I appreciate the hard work of the Solicitor General, Deputy Solicitor General Loren AliKhan, and their staff on this crucial issue,"** he said. **"When the definitive history of gay, lesbian, bisexual and transgender Americans is written, the District will enjoy pride of place as one of the nation's first jurisdictions to embrace full equality. This owes, in no small part, to the work of people like Todd, Loren, and countless others who stood up for justice even when it was not an easy or popular position to take."**

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